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FILED  
08 JUL 11 PM 3:14

COURT OF U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: ECL DEPUTY

United States District Court  
Southern District of California

10 JENNIFER MEDINA, an individual,

11 Plaintiff,

12 v.

13 COUNTY OF SAN DIEGO, CITY OF  
14 ENCINITAS, CITY OF SOLANA BEACH,  
15 DEPUTIES MARK RITCHIE and KARLA  
16 TAFT, individually and in their capacity as  
17 deputies for the SAN DIEGO SHERIFF'S  
18 DEPARTMENT, OFFICERS TIM  
FENTON and LEO NAVA, individually  
and in their capacity as officers for the  
CALIFORNIA HIGHWAY PATROL,

19 Defendants.

108 CV 1252 JAH RBB  
CASE NO:

COMPLAINT FOR:

1. VIOLATIONS OF 42 U.S.C. §1983  
[EXCESSIVE FORCE: Decedent]
2. VIOLATIONS OF 42 U.S.C. §1983  
[EXCESSIVE FORCE: Plaintiff]
3. VIOLATIONS OF 42 U.S.C. §1983  
[UNLAWFUL CUSTOMS, HABITS,  
PRACTICES, PROCEDURES]

JURY DEMAND ON ALL COUNTS

21 Plaintiff JENNIFER MEDINA, alleges:

22 SUMMARY OF COMPLAINT

23 1. This is a lawsuit brought by the widow of United States Marine Corps  
24 Corporal Robert J. Medina for violation of constitutional rights and damages arising out of  
25 a reckless and unreasonable police pursuit involving multiple law enforcement agencies  
26 which culminated in the unjustified shooting death of her husband on Highway 101 in  
27 Solana Beach shortly after his return from a tour in Iraq.

**JURY TRIAL DEMANDED**

1           2. PLAINTIFF hereby invokes her right to a trial by jury.

**JURISDICTION AND VENUE**

3           4. This is a lawsuit for money damages and is brought pursuant to 42  
U.S.C. §1983, et seq. and the Fourth and Fourteenth Amendments to the United States  
5 Constitution, for personal injuries and violation of constitutional rights by Defendants.  
6 Jurisdiction of this court is founded under 28 U.S.C. §1331 §1343 and the aforementioned  
7 statutory and constitutional provisions. Venue is proper in the Southern District of  
8 California because the acts which form the basis of Plaintiff's claim arose in the county of  
9 San Diego, California.

**PARTIES**

10          11       4. At all times relevant to this matter, Plaintiff JENNIFER MEDINA was an  
individual residing in the County of San Diego, State of California, and the spouse of  
12 ROBERT J. MEDINA (hereinafter "MEDINA" or "decedent").

13          14       5. JENNIFER MEDINA brings this action on her own behalf and as the  
decedent's successor in interest as defined in California Code of Civil Procedure sections  
15 377.11 and 377.34.

16          17       6. Defendant COUNTY OF SAN DIEGO (hereinafter "COUNTY") is a public  
entity existing under the laws of the State of California. The COUNTY operates under it's  
18 authority the SAN DIEGO SHERIFF'S DEPARTMENT (hereinafter collectively referred to  
as either 'COUNTY,' "SAN DIEGO SHERIFF'S DEPARTMENT," or "SDSD") and all  
19 Deputies employed by SDSD are employees of defendant COUNTY.

20          21       7. At all relevant times Defendant MARK RITCHIE (hereinafter "RITCHIE") was  
a deputy sheriff for the SAN DIEGO SHERIFF'S DEPARTMENT. In committing the acts  
22 and omissions alleged in this complaint, MARK RITCHIE was acting under color of law and  
within the course and scope of his employment as a deputy sheriff for the SAN DIEGO  
23 SHERIFF'S DEPARTMENT and the COUNTY OF SAN DIEGO.

1       8. At all relevant times Defendant KARLA TAFT (hereinafter "TAFT") was a  
2 deputy sheriff for the SAN DIEGO SHERIFF'S DEPARTMENT. In committing the acts and  
3 omissions alleged in this complaint, KARLA TAFT was acting under color of law and within  
4 the course and scope of her employment as a deputy sheriff for the SAN DIEGO  
5 SHERIFF'S DEPARTMENT and the COUNTY OF SAN DIEGO.

6       9. At all relevant times Defendant TIM FENTON (hereinafter "FENTON") was  
7 an officer for the CALIFORNIA HIGHWAY PATROL. In committing the acts and omissions  
8 alleged in this complaint, TIM FENTON was acting under color of law and within the course  
9 and scope of his employment as an officer for the CALIFORNIA HIGHWAY PATROL and  
10 the STATE OF CALIFORNIA.

11      10. At all relevant times Defendant LEO NAVA (hereinafter "NAVA") was an  
12 officer for the CALIFORNIA HIGHWAY PATROL. In committing the acts and omissions  
13 alleged in this complaint, LEO NAVA was acting under color of law and within the course  
14 and scope of his employment as an officer for the CALIFORNIA HIGHWAY PATROL and  
15 the STATE OF CALIFORNIA.

16      11. Defendant CITY OF ENCINITAS (hereinafter "ENCINITAS") is a public entity,  
17 duly organized and existing under the laws of the State of California and contracts with the  
18 COUNTY for law enforcement services provided by the SAN DIEGO SHERIFF'S  
19 DEPARTMENT.

20      12. Defendant CITY OF SOLANA BEACH (hereinafter "SOLANA BEACH") is a  
21 public entity, duly organized and existing under the laws of the State of California and  
22 contracts with the COUNTY for law enforcement services provided by the SAN DIEGO  
23 SHERIFF'S DEPARTMENT

24      13. Each defendant sued in this complaint was acting within the course and  
25 scope of their employment and performed the acts described under the color and pretense  
26 of the statutes, ordinances, regulations, customs and usages of the State of California.

27      14. Each of the defendants caused and is responsible for the below-described  
28 unlawful conduct and resulting injuries by, among other things, personally participating in

1 the unlawful conduct or acting jointly or conspiring with others who did so; by authorizing,  
2 acquiescing in or setting in motion policies, plans or actions that led to the unlawful conduct  
3 by failing to take action to prevent unlawful conduct; by failing and refusing with deliberate  
4 indifference to plaintiff's rights to initiate and maintain adequate training and supervision;  
5 and by ratifying the unlawful conduct that occurred by agents and officers under their  
6 direction and control, including failing to take remedial or disciplinary action.

7        15. At all relevant times, each of the defendants was, at all relevant times, the  
8 agent, servant, or employee of each of the other defendants, that each defendant engaged  
9 in the conduct described in this complaint within the course and scope of this agency or  
10 employment, that each defendant did so with the permission, consent, authority, and  
11 ratification of their co-defendants, and each of them.

## **FACTUAL ALLEGATIONS**

16. Decedent MEDINA was a 22- year old active duty Marine who had just  
returned from a tour in Iraq less than three months before being shot and killed by  
Defendants at the conclusion of a police chase all because he failed to comply with an  
attempted traffic stop allegedly initiated because the officers observed him weaving in a  
traffic lane and suspected he may have been driving under the influence.

18       17. Upon returning from his tour in Iraq, decedent MEDINA was suffering from  
19 post traumatic stress syndrome. His then undiagnosed mental illness was creating turmoil  
20 in his family relationships and adversely impacting his ability to perform at this command.

21       18. On the evening of November 15, 2006, decedent MEDINA and his spouse  
22 Plaintiff JENNIFER MEDINA got into a minor argument that intermittently continued  
23 throughout the evening. Around 1:00 a.m., MEDINA informed Plaintiff that he was going  
24 out and Plaintiff protested in vain that he not leave.

25        19. At approximately 1:30 a.m., on November 16, 2006, CHP officers attempted  
26 to conduct a traffic stop of the decedent allegedly initiated because the officers observed  
27 him weaving in a traffic lane and suspected he may have been driving under the influence.

1 After his death, toxicology tests revealed that the decedent had no alcohol in his system  
2 and no significant amounts of any other substance sufficient to impair his driving.

3       20. In addition to being a Marine, decedent MEDINA was Hispanic and fit the  
4 racial profile that the California Highway Patrol has previously been accused of unlawfully  
5 targeting for traffic stops. At the time of MEDINA's death, the California Highway Patrol  
6 was still complying with the terms of a settlement agreement reached in a lawsuit arising  
7 from those allegations of racial profiling.

8       21. The SAN DIEGO SHERIFF's DEPARTMENT which intervened in the pursuit  
9 has likewise been accused of racial profiling of Hispanic males. In the SAN DIEGO  
10 SHERIFF's DEPARTMENT SDSD's case, the law enforcement activity at issue has been  
11 the use unjustified deadly force in the City of Vista, California.

12       22. MEDINA was subjected to the SDSD's racial profiling in Vista, where he lived,  
13 a few weeks before he was shot and killed. He was arrested outside of his Vista home  
14 where he was washing his car after deputies allegedly responded to a call of a suspicious  
15 person. Deputies then arrested him for possessing a baton that was issued to him by the  
16 Marine Corps.

17       23. MEDINA did not yield to the CHP's attempted traffic stop and a slow speed  
18 pursuit ensued through Oceanside. Exercising unreasonable judgment, the CHP officers  
19 elected to continue the pursuit despite the fact that the decedent was not so impaired or  
20 reckless in his driving that public safety concerns necessitated his immediate arrest.  
21 Officers attempted to forcibly stop the decedent using spike strips and pursuit  
22 immobilization technique (PIT) maneuvers which proved unsuccessful other than to  
23 escalate the decedent's fright.

24       24. The decedent returned to the freeway and headed south on I-5 at a normal  
25 rate of speed. As they left Oceanside, the CHP officers requested that an Oceanside  
26 canine unit remain in the pursuit. MEDINA exited I-5 at Carlsbad and headed toward  
27 Highway 101 south. By the time the pursuit entered Leucadia, there were at least five  
28

1 patrol cars pursuing the decedent who's only potential criminal activity up until that point  
2 was failure to yield to a traffic stop.

3       25. The entire dynamics of the pursuit changed however once defendant MARK  
4 RITCHIE recklessly intervened in the pursuit without authorization at the intersection of  
5 Leucadia Boulevard and Highway 101. Defendant RITCHIE took it upon himself to deploy  
6 a spike strip at Leucadia Boulevard and placed himself in a dangerous position in the path  
7 of the pursuit.

8       26. At the same time and location, CHP officers elected to perform another  
9 reckless and unreasonable pit manuever which further endangered defendant RITCHIE.  
10 The unsafe and reckless acts initiated by RITCHIE and the CHP officers which jeopardized  
11 the safety of one of their own was blamed on the decedent. An officer radioed in law  
12 enforcement's safety mishap as an "assault with a deadly weapon" creating an  
13 unreasonable and unjustified heightened threat alert to other law enforcement personnel  
14 monitoring, participating and joining in the pursuit.

15       27. The pursuit continued south on Highway 101 with Defendant RITCHIE  
16 continuing to offer his unauthorized assistance. He passed the pursuit without activating  
17 lights or sirens and when he reached Cardiff, he deployed another spike strip which was  
18 again unsuccessful and again resulted in another officer radioing in an "assault with a  
19 deadly weapon" call.

20       28. Defendant RITCHIE once again entered the pursuit and passed it until he  
21 reached Lomas Santa Fe in Solana Beach. At that point, he observed CHP officers make  
22 another reckless pit manuever, this time temporarily disabling the decedent's truck by  
23 forcing it into a dirt easement off the sidewalk. Defendant RITCHIE immediately rushed  
24 over to contain the decedent, ramming the decedent's truck with such force that RITCHIE's  
25 airbag deployed.

26       29. Defendant RITCHIE immediately went to the passenger side of the  
27 decedent's truck with his gun drawn. The passenger side window was partially down and  
28 RITCHIE was able to make eye contact with the decedent. RITCHIE had no belief that the

1 decedent was armed and he was able to observe his hands on the steering wheel. He  
2 ordered the decedent to turn off the vehicle and put his hands up.

3       30. RITCHIE became angered when MEDINA did not follow his orders. RITCHIE  
4 made a conscious decision not to use any other means of apprehension or detention other  
5 than his gun. In a show of force, RITCHIE fired his gun at the truck's rear tire which  
6 deflated. RITCHIE again aimed his gun at the decedent and gave orders and again the  
7 decedent did not comply. Getting angrier, RITCHIE fired another round at the front tire.  
8 RITCHIE again aimed his weapon at the decedent and gave commands which were  
9 ignored as the decedent tried to extricate his truck from between two patrol cars. RITCHIE  
10 fired again.

11       31. By this time, several officers and deputies had taken up positions around the  
12 decedent's truck and in close proximity to it. For the last time in the decedent's lifetime,  
13 RITCHIE's reckless provoking actions would create a chain reaction of similar unreasoned  
14 hasty and irresponsible actions by three other fellow law enforcement officers culminating  
15 in the unjustified use of deadly force.

16       32. After the third warning shot was fired by Defendant RITCHIE and he moved  
17 out of the way of the decedent's truck as it was extricated from between the patrol cars,  
18 CHP officers FENTON and NAVA and deputy sheriffs TAFT and RITCHIE in an excessive  
19 show of deadly force fired over 37 rounds of gunfire at the decedent. These officers and  
20 deputies continued to fire even as the decedent's truck no longer posed an alleged  
21 perceived threat to the safety of any officers. There is no conclusive determination as to  
22 which of these four officers and deputies fired the fatal round.

23       33. Decedent MEDINA was alive when he was pulled from his truck and first aid  
24 was administered by the officers. He died shortly after the paramedics arrived at the  
25 scene.

26       34. Shortly after the shooting, the SDSD disseminated numerous public reports  
27 containing a partial account of events designed to exonerate the officers from any  
28 responsibility for the unjustified and reckless killing of MEDINA and to deflect criticism or

scrutiny of the professional practices of the law enforcement agencies involved, regardless  
of the true facts underlying the tragic and unnecessary death of MEDINA.

**FIRST CLAIM FOR DAMAGES  
42 U.S.C. §1983: Violation of Decedent's Rights  
EXCESSIVE FORCE  
[Against all Defendants]**

35. Plaintiff realleges and incorporates by reference paragraphs 1 through 34 as though fully set forth in this cause of action.

36. Defendants, acting under color of state law, used unnecessary, unjustified excessive force in shooting and killing MEDINA, thereby depriving Decedent of certain constitutionally protected rights, including but not limited to the right to be free from the use of excessive force by law enforcement officers as guaranteed by the fourth amendment to the United States Constitution. This unreasonable and excessive force constituted an unlawful seizure, in violation of Decedent's rights as guaranteed by the fourth amendment to the United States Constitution.

37. As a proximate result of the conduct of defendants, Decedent MEDINA was injured in mind and body, and incurred general damages for the deprivation of his constitutional rights.

38. Defendants acted in reckless and callous disregard for the constitutional rights of Decedent, and with willful oppression and malice. Plaintiff therefore seeks an award of punitive damages against these individual Defendants.

**SECOND CLAIM FOR DAMAGES  
42 U.S.C. §1983: Violation of Plaintiff's Rights  
EXCESSIVE FORCE  
[Against all Defendants]**

39. Plaintiff realleges and incorporates by reference paragraphs 1 through 38 as though fully set forth in this cause of action.

40. The killing of MEDINA without lawful justification constituted an arbitrary abuse of police power under color of state law, committed with deliberate indifference to

1 the rights of Decedent's family members. The conduct of Defendants, therefore violated  
2 the liberty interest of Plaintiff JENNIFER MEDINA, in her personal capacity, in maintaining  
3 her familial relationship with Decedent, an interest which is protected by the fourteenth  
4 amendment to the United States Constitution.

5       41. As a proximate result of the Defendants' violations of Plaintiff's fourteenth  
6 amendment rights, Plaintiffs suffered the loss of the love, companionship, society, comfort,  
7 services, and moral and financial support fo the Decedent, and her sense of security,  
8 dignity and pride as a citizen of the United States of America.

9       42. Defendants acted in reckless and callous disregard for the constitutional  
10 rights of Plaintiff, and willful oppression and malice. Plaintiff therefore seeks an award  
11 of punitive damages against these individual defendants.

**THIRD CLAIM FOR DAMAGES**  
**42 U.S.C. §1983**  
**UNLAWFUL POLICIES, CUSTOMS or HABITS**  
[Against Defendants County of San Diego,  
City of Encinitas and City of Solana Beach]

15       43. Plaintiff realleges and incorporates by reference paragraphs 1 through 42 as  
16 though fully set forth in this cause of action.

17       44. At the time deadly force was employed against MEDINA, Defendants  
18 knowingly and deliberately fostered, maintained and condoned a policy, practice and  
19 custom or otherwise acted in a manner that was deliberately indifferent to the lives and  
20 liberty of persons such as decedent MEDINA. Said policy, practice, custom and/or actions  
21 included, without limitation, failing to provide adequate hiring, training, retention,  
22 supervision, discipline and control of deputies and officers with respect to the  
23 constitutionally appropriate use of force, including deadly force and with respect to  
24 employing safe and constitutionally permissible means of performing necessary police  
25 functions short of lethal force.

28

1       45. Further deliberate indifference is manifested in the failure to change, correct,  
2 revoke or rescind these policies, procedures, customs and practices despite prior  
3 knowledge by defendants and their policymakers of indistinguishably similar incidents  
4 involving improper use of racial profiling as an illegitimate substitute for probable cause,  
5 improper pursuit tactics and the use of unjustified and unreasonable deadly force.

6       46. Deliberate indifference is also evidenced by Defendants failure to identify and  
7 more closely supervise or retrain deputies and officers who improperly use excessive  
8 and/or deadly force that pose an unreasonable risk of death or great bodily harm.

9       47. By consciously and deliberately overlooking the acts of misconduct and  
10 publicly approving the acts of misconduct by subordinate officers, Defendants, established  
11 a defacto custom and practice of condoning and ratifying such misconduct, thereby  
12 establishing a tolerated pattern of constitutional violations.

13       48. The policies, practices, acts and omissions of Defendants, the deliberate  
14 indifference of such Defendants, and the adoption and ratification of the misconduct  
15 described herein were the moving forces behind the violations of constitutional rights and  
16 the resulting damages suffered by Plaintiff and Decedent.

17       49. By reason of the aforementioned acts and omissions of Defendants, Plaintiff  
18 was required to retain counsel to institute and prosecute the within action and Plaintiff  
19 requests payment by Defendants of a reasonable sum as and for attorneys fees pursuant  
20 to 42 U.S.C. §1988.

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## **PRAYER FOR RELIEF**

2 Wherefore, PLAINTIFF prays for judgment against Defendants and each of them  
3 as follows;

- 4     1. For general damages in an amount to be proven at trial;
- 5     2. For special damages in an amount to be proven at trial;
- 6     3. For punitive damages against the individually-named defendants;
- 7     4. For attorneys' fees pursuant to 42 U.S.C. §1988;
- 8     5. For costs of suit incurred herein; and
- 9     6. For such other and further relief as the court may deem just and proper.

11 Dated: 11/11/08

Dena M. Acosta  
Dena M. Acosta, Esq.,  
Anton C. Gerschler, Esq. Attorneys for  
Plaintiff JENNIFER MEDINA

**UNITED STATES  
DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION**

**# 152929 - TC**

**July 11, 2008  
15:17:10**

**Civ Fil Non-Pris**

USAO #: 08CV1252  
Judge.: JOHN A HOUSTON  
Amount.: \$350.00 CK  
Check#: BC6096

**Total-> \$350.00**

**FROM: CIVIL FILING**

